1950. File I.C.S. Bel 2/50

K

Legal DEPARTMENT

Examined A BRANCH

Subject:— Suit- Belgaum

C.S.No. 67 of 1949

Tarachand Palamal Bhandari – Plff

Vs.

The Province of Bombay – Deft.

For a declaration that the plff is entitled to be confirmed in possession of suit property and that the order and notice of eviction are ultra vires and for a consequential injunction

S. Belgaum 2/1950

File No.

Std. Scott. Slip 24-B

S. Bel 2/50

Reg. Suit. No. 67 of 1949.

In the Court of the Civil Judge S.Dn.Belgaum.

1. Tarachand Palamal Bhandari Plff.

Vs.

1. The Province of Bombay. Deft.

In this the plff prayes as under:-

1) The plff has filed a suit against the deft for a declaration that the order passed by the Collector under s.202 of the L.R.Code for the eviction of the plff from S.No. 197(A) is Ultra vires, and that he is entitled to be continued in possession,etc.

2) The plff has got his costly buildings over the suit site and he is carrying on his timber and other business which is mainsty of his family; and if injunction till the disposal of the suit is not granted, the Collector of Belgaum is likly to enforce the order in question, which means a substancial and irreparable loss causing injury to plff's right and making the decree in the suit infructuous

3) The plff has got prima facia a very good case on merits and there is no urjency of anything in the matter for the Collector to enforce the said order, inasmuch as the suit site has been used for a number of years, ie. more than 60 years or from immemorial time for non-agricultural purposes, and there is not at all a necessity to enforce the said order without giving the opportunity to the plff to prove his case.

4) Notice of suit has also been given and no reply has been received from the Collector, though more than two months have elapsed, but the enforcement of the order is likly to take place in the vacation and hence there is necessity of tem. inuction

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It is therefore prayedthat an interim injunction restraining the Collector of Belgaum from

enforcing the orders under the L.RLCode, including an orders under s.202 of the said Code, on the plff for his evication from S.No. 197-A, Thalakwadi, or otherwise removing him from may kindly be issued and served immediatly on the Collector of Belgaum.

The applicant is prepared to pau urjent proces: The pocket may kindly be handed over for service of this order - in the hands of the applicant.

Drafted and Presented By

Belgaum.
22-4-1949.

R.P.Bhandari,
Pleader,

3 7

Letter.

To

The Remembrancer of Legal Affairs, Bombay.

Subject:- ~~Appeal~~ suit No. 69/49, by Mr. T.P.Bhanda of Belgaum against the Government.

No.L.A.W.-752. Belgaum 3 August 1949

2. Information regarding special suit No, 67 of 1949 as required under Rule 118(1) of the Law Officers - - Rules is given below seriation:-

I Special jurisdiction suit No. 67 of 1949.

II Filed on 22-4-1949 in the Court of the Civil Judge, Senior Division, Belgaum.

III Mr. Tarachand Palmal Bhandari of Belgaum(Plaintiff)

XX Versus

The Province of Bombay.

IV The suit is valued for declaration and injunction under section 7(IV)(C) of the Court Fees Act.

V. First date for filing the objections was 19-7-49 The next date filed is 19-8-1949.

VI Notice of suit uneer section 80, C.P.C. was - - delivered on 29-10-1948. It is at page 75 to 78 in file No. III.

3. The following papers are sent herewith as required by Rule 118(2) of the Law Officers Rules.

a) A copy of the plaint in English is at pages 89 to 92 in file No. III .

b) Remarks offered by the District Government - Pleader under Rule 144 of the Law Officers Rules are at page No.93 in file No. III.

c) Chronological statement of facts (in duplicate at pages 95 to 96 in file No. III.

d) Case papers in three files.

3-8-49

4. Necessary instructions regarding defence of the sui may kindly be issued early.

For Collector of Belgaum.

✓ Submitted through the Commissioner, S.D., Belgaum.

No.L.S.T.-413.
Belgaum, 9th August 1949.

Submitted.

2. Sanction may be accorded for the defence of the suit on the grounds indicated by the Collector.

O.C.signed by
the Commr.

For Commissioner, S.D.

Remembrancer of Legal Affairs.

L D
13 AUG 1949

TO GOVERNMENT
LEGAL DEPARTMENT
12496
A-16-8-49

5 19

Belgaum Civil Suit No. 67 of 1949.

The plaintiff is a lessee of S. No. 197-A of Belgaum which is agricultural land. He began construction on the plot without permission and therefore, the Collr. directed his eviction under s. 66 of the Land Revenue Code. The plaintiff applied to Govt. to regularise the n.a. use but his request was refused. Hence the suit.

The suit is defensible. A brief and the written statement to be filed on behalf of Govt. are put upon the following pages. sanction may be accorded to the defence of the suit on the lines of the brief.

2 Regd
19/10

A.S. The brief & W.S are in order & approved
17/10
17/10

17149
19-10-49
A.

Seen R.D. 603.
18.10.49

18. Comp B

S. C.
13 OCT 1949

X No 11980
of 18-10-1949

In the Court of the Civil Judge (Senior Division) Belgaum.

Special Suit No. 67 of 1949.

Tarachand Palamal Bhandari - - - - - - - - - - Plaintiff

Vs.

The Province of Bombay - - - - - - - - - - - - Defendant.

The Written Statement of the defendant above named is as follows :

1. No Section 197-A of Belgaum is assessed for the purpose of agriculture and permission to use it for a non-agricultural purpose has never been sought either by the plaintiff or by any of his predecessor-in-title. It is denied that the land is used for non-agricultural purpose for more than 60 years. The plaintiff is put to strict proof of it.

2. Assuming but not admitting that the land is put to non-agricultural use for more than 60 years, it is so used without the knowledge of the defendant and the defendant is not thereby estopped from taking action under the Land Revenue Code, 1879.

3. With regard to paragraph 3 of the plaint, it is not admitted that the S. No. was never held for the purpose of agriculture. The Survey Number was assessed for the purpose of agriculture and only agricultural assessment was recovered. As the land was converted to non-agricultural use without permission, the plaintiff rendered himself liable to action under section 66 of the Land Revenue Code 1879.

4. Allegations of adverse possession against Government are irrelevant. Eviction has been ordered not because the plaintiff is a trespasser but on account of his using the agricultural land for a non-agricultural purpose without permission of the Collector under section 65 of the Land Revenue Code, 1879.

5. The suit is barred under section 11 of the Bombay Revenue Jurisdiction Act, 1876.

6. This suit is time barred under Article 14 of the Indian Limitation Act, 1908. The eviction notice was

9 24 27

issued on the 16th October 1946. The cause of action, if any, arose on that day and plaintiff's suit having been filed more than a year after that date is time barred.

7. The plaintiff is not entitled to any relief and his suit should be dismissed with costs.

District Government Pleader,
Belgaum.

I, District Government Pleader, Belgaum, do hereby declare that what is stated in paragraphs 1 to 7 above is true according to the information received and believed to be true. This verification is made at on the day of 1949.

District Government Pleader,
Belgaum.

kam. 6.10.-49.

11 25

No. 11732
Office of the
Remembrancer of Legal Affairs,
Bombay Castle, 19
20th October

Subject: Belgaum C.S. No. 67 of 1949.

MEMORANDUM.

The ~~District~~ Government Pleader, Belgaum is informed that the defence of the suit ~~noted~~ above is sanctioned and he is requested to conduct the same on the lines of the brief, a typed copy of which together with two copies of the written statement is sent herewith in advance.

Papers of the case in three files received ~~from the Collector accompany.~~

By Order,

For Remembrancer of Legal Affairs.

To

The District Government Pleader, Belgaum.

KML/

Issued on 20/10

B-22

Sp. Suit No. 67 of 1949.

Ex. 20.

I S S U E S.

1. Whether plff proves that the land in dispute was used for non-agricultural purposes, since long, with the permission of Govt. as alleged in para 2 of the plaint?
2. If it was used without any permission for non-agricultural purposes, can such long user of it for non-agricultural purposes, estop Govt. from questioning its similar use now ?
3. Whether plff has acquired adverse title as regards such use for non-agricultural purposes ?
4. Whether of eviction and notice passed by the Prant officer are ultra- vires ?
5. Whether they can be set aside ?
6. Whether the suit is barred under section 11 of Revenue Jurisdiction Act ?
7. Whether the claim of plff is within time as contended in para 6 of W.S. ?.
8. Whether plff is entitled to the declaration and injunction as sought ? e

No more sought.

Sd.
Civil Judge, Belgaum.

13.12.1949.

A/ *Suits:*

Belgaum.

For a declaration that the plaintiff is entitled to be confirmed in possession of suit property and that the order and notice of eviction are *ultra vires* and for a consequential injunction. 1A

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 12315.

Bombay Castle, 1st November 1949.

Letter from the Collector of Belgaum, No. L.A.W. 752, dated the 3rd August 1949—Forwarding the papers in the suit noted in the margin; and requesting sanction to its defence.

B 1 IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), BELGAUM.
(Civil Suit No. 67 of 1949.) (new C.S. No. 424/51)

Tarachand Palamal Bhandari ... ... Plaintiff;

versus

The Province of Bombay ... ... Defendant.

Claim Rs. 1B

Endorsement by the Commissioner, Southern Division, No. L.S.F. 413, dated the 9th August 1949—Forwarding the above with his concurrence.

Memorandum to the District Government Pleader, Belgaum. No. 11732, dated the 20th October 1949—Forwarding a copy of the brief with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to Government.

Original

G. R., No. 12315, L. D., dated the 1st November 1949.

To

*The Revenue Department,
*The Collector of Belgaum,
*The Commissioner, Southern Division,
The District Government Pleader, Belgaum (with two copies of the brief).

*With a copy of the brief.

No. of 1949.

Copy forwarded for information and guidance to

Issued opp 6/2/50

Submitted after time
File in S. Belgaum/50 (New)

1/83

BELGAUM CIVIL SUIT No. 67 OF 1949.

Chronological Statement of Facts.

This suit is filed by Tarachand Palamal Bhandari of Belgaum for a declaration that he is entitled to be confirmed in possession of suit property and that the order and notice of eviction are *ultra vires* and for an injunction against Government restraining it from disturbing his possession.

p. 4, file I.

1. On the 15th November 1945, the Executive Engineer, Belgaum, reported to the Collector of Belgaum that the plaintiff was constructing a building on the suit land which was in contravention of Government Orders in Government Resolution, Revenue Department, No. 1C204/24/VIII, dated the 27th June 1945, being within a distance of 50 feet from the road boundary and requested him to see that the construction was stopped at once. In the inquiries that followed it was noticed that the land (S. No. 197-A of Belgaum) was agricultural land and it was being used for non-agricultural purpose without obtaining the requisite permission. On the

p. 41, do.

12th September 1946, the Collector directed the Prant Officer, Belgaum Prant, to issue an eviction notice under section 202 of the Land Revenue Code, 1879, and also to submit proposals for the levy of fine and non-agricultural assessment under section 66 of the Land Revenue Code.

p. 43, do.

3. On the 18th October 1946, a notice under section 202 of the Land Revenue Code was issued to the plaintiff directing him to remove the structure within 15 days from the receipt of the notice.

4. The plaintiff, however, did not remove the structure in time. Papers were, therefore, submitted

p. 37, file II.

to Government and on the 17th March 1947 sanction was accorded by Government to remove the structure through Government agency under Government Letter, Revenue Department, No. 7289/33-II-B, dated the 17th March 1947.

p. 45, do.

5. On the 21st October 1947, the plaintiff made a petition to Government requesting it to regularise the unauthorised use of the suit land but his request was refused on the 3rd March 1948.

6. On the 28th October 1948 the plaintiff gave a notice of suit under section 80 of the Civil Procedure Code ; and on the 22nd April 1949 filed the suit in the Court of the Civil Judge, Senior Division, Belgaum, for the reliefs stated above.

Grounds of Defence.

Maintainability of the suit.—The plaintiff does not appear to have exhausted all the remedies provided under section 203 of the Land Revenue Code in asmuch as no appeal appears to have been preferred by him to the higher Revenue authorities or the Bombay Revenue Tribunal. The suit is thus barred by section 11 of the Bombay Revenue Jurisdiction Act, 1876.

2. *Limitation.*—The suit is in effect to set aside the order and notice of eviction. A prayer to this effect has been sought in clause (d) of paragraph 10 of the plaint. Orders regarding eviction were passed by the Collector in his No. LND, dated the 12th September 1946, and the notice of eviction served on the plaintiff is dated 16th October 1946. The plaintiff has not made it clear.

whether he is seeking a declaration against the order of the Collector, dated the 12th September 1946, or against the eviction notice, dated the 16th October 1946. It has been held in Secretary of State *vs.* Chimanlal Jamnadas, 45 Bom. L.R. 295 that the notice of eviction amounts to a decision or order of Government and assuming that the plaintiff is challenging this notice, it is clear that his suit is time barred under Article 14 of the Indian Limitation Act, 1908, as it is filed more than a year after the date of the notice. The order was passed under the Land Revenue Code, 1879, and it cannot be challenged as *ultra vires* as it is clearly referable to the statutory provisions of section 66 of the Code. Article 14 of the Limitation Act is, therefore, the only article applicable to facts of the case (see Patdaya *vs.* Secretary of State, 48 Bom. 61). It may be contended that Article 14 would not apply unless the order is enforced and thereby the plaintiff's rights are affected. This contention is open to question and should be opposed (see Muthirulandi *vs.* Setharam Iyer, I.L.R. 42 Mad. 425 F.B.). Further the plaintiff cannot be entitled to the other declarations sought without getting the orders set aside. The case hence falls under Article 14 (see Subbanna *vs.* Secretary of State, 31 I.C. 267). The suit is thus likely to be dismissed on the preliminary point of limitation and a request for trying it as a preliminary issue may be made.

3. *Merits.*—The land has been entered in the Record of Rights as agricultural land and was assessed for the purpose of agriculture at anna one only. The plaintiff has not been able to show that he or any of his predecessors-in-title had applied for conversion of the land for N. A. use. The only contention advanced by the plaintiff is that the land is being used as non-agricultural for a considerable time, i.e. more than 60 years. This contention is probably raised as a bar to Government's taking action under section 66 of the Land Revenue Code. Section 66 does not contain anything which would suggest that the Collector cannot take action under that section after a lapse of a particular time. In the absence of any limitation, it would be competent to the Collector to take action under section 66, whenever it comes to his notice than a particular land assessed or held for the purpope of agriculture is diverted to some other use. The plaintiff has also contended that the land was never held for the purpose of agriculture. This contention is incorrect. The records show that the land has been subjected to agricultural assessment. It may be possible for the plaintiff to contend that though agricultural assessment has been levied still the land was used for non-agricultural purpose and hence the lands should be deemed to have been assessed for non-agricultural purpose only. This should be denied and the plaintiff should be required to give strict proof of such user at the time of levy of assessment. It should also be contended, assuming that the plaintiff is able to prove that the land was used for non-agricultural purpose when the assessment was levied at the time of original or revision settlement, that the non-agricultural use was not known to Government and hence the assessment should not be considered as anything but agricultural.

4. As the suit land which was assessed to agriculture has been converted to non-agricultural use, it is clear that it was competent to the Collector to order eviction of the plaintiff. Section 66 of the Land Revenue Code, 1879, enacts that if any such land (i.e. land assessed or held for the purpose of agriculture) be used for any other purpose without the permission of the Collector being first obtained or before the expiry of the period prescribed in section 65, the occupant and any tenant, or other

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person holding under or through him, shall be liable to be summarily evicted by the Collector from the land so used and from the entire field or survey number of which it may form a part and the occupant shall also be liable to pay, in addition to the new assessment which may be leviable under the provisions of section 48 for the period during which the said land has been so used, such fine as the Collector may, subject to the general orders of the Provincial Government direct. It is obvious that the Collector's action in the present case is fully covered by the provisions of this section and his action is quite legal.

5. For all these reasons, it should be urged that the plaintiff is not entitled to any relief and his suit should be dismissed with costs.

2/50

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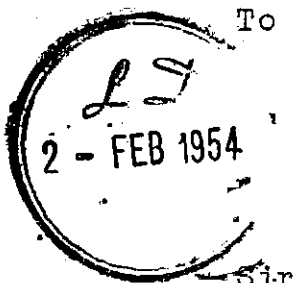
No.J- 115 of 1954.
Office of the Dist.Govt.Pleader,
Belgaum. Dated:- 29-1-1954.

From

Shri M.R.Patil, B.A.,LL.B.,
District Government Pleader, Belgaum.

To

The Remembrancer of Legal Affairs, Bombay.



Subject:- C.S.No.424/51 (R.S.No.67/49)..
1. Tarachand Palmal Bhandari .. Plff.
Vs.
1. The Province of Bombay.. Deft.

Sir,

With reference to the subject mentioned above, I have the honour to inform you that the suit is dismissed for default on 21-1-1954 and the order of the Court runs as under :-

" The suit is dismissed with costs".

Yours faithfully,

Dist.Govt.Pleader, Belgaum.

3044
3/2/54 E

Copy F.W.Cs to :
The Collector, Belgaum, for information.

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39/1

Submitted

CS No 67/45 is decided in favour of Govt. Result may be communicated after the receipt of copy of report. Till then this may be filed in S. Bel. 2/5

Sd/-

3/2

Sd(M). 4/2

S. Bel. 2/5

23
47

Presented on
20-2-1954.

Misc.No. 39/54.

Reg.Suit No.424/51.

In the Court of the Civil Judge, S.D.,Belgaum.

1. Tarachand Palamal Bhandari, age 75,

Trader, Hindu of Thalakwadi, Belgaum.. Plff (applicant).

Vs.

1. The State of Bombay .... Deft.(opponent).

Application under Sec.Order 9 rule 13.

In this the applicant states as under :-

1. The applicant filed suit No.424/51 against the applicant. The suit came up for hearing on 21-1-1954 and the applicant being sick was not present in Court on the date of hearing and hence the same was decided ex-parte on or about 21-1-1954.

2. The applicant is an old man and is always keeping indifferent health due to oldage and other circumstances. On the date of hearing he was quite unable to attend the Court as he had fever and dysentery and thus he was prevented by sufficient cause from appearing on the said date. He was also unable to inform about this to his pleader who being ignorant of the applicant's health passed No instructions purshis.

3. The applicant has got a prima facie good case on merits. As he is not guilty of any improper conduct or gross negligence the exparte decree dismissing the suit may kindly be set aside and the suit may be restored or kept again for hearing.

The docter's certificate is produced herewith.

Sd/-

20-2-54.

Below application.

This is an application for restoring suit No.424/51 on the ground that the applicant was suffering from fever and dysentery and was thus prevented from attending Court on 21-1-1954.

2. Opponent by W.S.Ex.7 contends that if the applicant was really ill he would have informed his pleader but as the pleader gave purshis of no instructions, it is evident that the ground of illness is false and hence the application be dismissed.

3. Issues. 1). Whether there was sufficient cause for applicant's absence on 21-1-1954 ?

2). What order ?

4. My findings are :-

1. Yes. 2. As per order.

Reasons.

5. The evidence was recorded on affidavits with the consent of the parties (vide purshis Ex.11). The opponent has put in no affidavit.

6. The applicant has examined himself (Ex.12) and the docter (Ex.13) who treated him. Both state on S.A that the applicant was suffering from fever and diarrhoea from 19-1-54 to 24-1-54. The docter's certificate (Ex.14) is also to the same effect. In the absence of any evidence to the contrary, I am satisfied that there was sufficient cause for applicant's absence on 21-1-54. I answer issue No.1 in the affirmative.

7. The application has therefore to be allowed. But in view of the applicant's negligence in not informing his pleader about his illness on the material date I think that he should be made to pay the costs of the suit and this application as a condition precedent to the restoration of the suit. I allow him time till 30-9-54 to pay those costs.

Order:-

The application is allowed and Reg.suit No.424/51 be restored to file but only on condition that the applicant pays the costs of the suit as well as of this application on or before 30-9-1954. If he fails to pay as above the application shall be treated as dismissed with costs.'

14-9-54.

Sd/- D.G.Rajadhyaksha.

Civil Judge, S.D., Belgaum.

25 -11

D.G.B. Please respond & state whether according to law one can lodge appeal the PCA dismissed 1 week ago suit & whose appeal in Court before suit was restored & file, and whether the amount have been credited & Cost

Sollek
15-11-54

27-5

No. 25969/E
Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), 16th November 1954.

Subject:- Misc. No.39/54 (C.S. No.424/51).
T.P. Bhandari .. Plaintiff
vs.
The State of Bombay ..Defendant.

Memorandum.

With reference to his letter No.957 dated the 2nd November 1954, on the above subject, the District Government Pleader, Belgaum is requested to state whether according to the order on the miscellaneous application the plaintiff deposited Government's costs of the suit and ~~made~~ misc- application in Court before the suit was restored to file and whether the amount has been credited to Government.

For Remembrancer of Legal Affairs.

To

The District Government Pleader,
Belgaum.

Submitted for signature.
16/11
Sol (Ml) 16 11

Issued.
16/11

Regular Civil Appeal No. 30/55.

In the Court of the District Judge, Belgaum.

1. Tarachand Palamal Bhandari, age 64,

Trader, Arya Samajist, of Thalakwadi., Belgaum.. Appellant. (Ori.plff).

Vs.

1. The State of Bombay. Respondent.(Ori.deft)

Claim Rs 5/- for court fees and Jurisdiction.

Herein the above named appellant begs to appeal from the order and decree passed by the Civil Judge, S.D., Belgaum on 24-11-1954 and sets forth the following grounds of objection to the decree appealed from :

1. The decision of the lower Court is contrary to law and weight of evidence in the case.

2. The lower Court has erred in not holding that the land in dispute was used for non-agricultural purposes since long with the permission of Government.

3. The lower Court should have held that the long user of the land for non-agricultural purposes estopped Govt. from questioning its similar use now.

4. The lower Court erred in holding that the appellant plff had failed to show that he had acquired adverse title as regards use for non-agricultural purposes.

5. The lower Court erred in not taking that the order passed by the Prant Officer regarding the eviction of plff is Ultra vires.

6. The lower Court should have held that the Revenue authorities had no authority to proceed under Sec.202 of Land Revenue Code and pass order regarding the evidtion.

7. The lower Court should have seen that plff was entitled to be confirmed in his possession.

8. The lower Court erred in taking that the suit was barred under Sec.11 of the Revenue Jurisdiction Act.

9. The lower Court is wrong in taking that the suit was not in time.

10. The lower Court has rightly believed the case of plff

that he has the right to hold the land and he has remained in the use and enjoyment of the same for storing timber etc., still the lower Court has erred in not taking that it must have been done so, with the permission of the Collector. At least from the position of the circumstances, the permission should have been taken to be impliedly given.

11. The lower Court is wrong in not taking that the order of eviction passed by the Collector under Sec.202 of the Land Revenue Code was wrong and ultra vires.

12. The lower Court has rightly seen the justice of the case of the appellant and has observed that the Collector should have granted permission on reasonable terms and conditions instead of ordering of eviction.

13. It was competent for the lower Court to grant the prayer sought by the appellant in the suit and to allow the suit.

14. The lower Court is wrong in not decreeing plff's suit when plff's prayer was just and legal.

15. The evidence, the circumstances and the probabiliti-es have not been properly and fully considered and weighed.

On these among other grounds, it is prayed that the order and decree of the lower Court be set aside and the plff's suit be fully be decreed.

The certified copies of the judgment and decree are produced herewith.

This appeal is filed in time as the decree has been signed on 21-12-1954 and from that time this is filed within 30 days apart from the question of 22 days required for getting the copies of the judgment and decree.

Belgaum.

17th January 1955.

Sd/-

Pleader for plff.

31 57

. Suits:

Belgaum.

For a declaration that the plaintiff is entitled to be confirmed in possession of suit property and that the order and notice of eviction are ultra vires and for a consequential injunction.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 3908/K
Bombay Castle, 21st February, 1955.

Read Government Resolution, Legal Department, No. 12315 dated the 1st November, 1949. Letter from the District Government Pleader, Belgaum, No.115 dated the 29th January, 1954, stating that the suit noted in the margin was decided by the Civil Judge (Senior Division), Belgaum, on 21st January 1954, when the following order was passed:-

In the Court of the Civil Judge, (Senior Division), Belgaum.	:	
New Civil Suit No. 424 of 1951. (Civil Suit No. 67 of 1949)	:	
Tarachand Palamal Bhandari ... ... Plaintiff; Vs.	:	
The Province of Bombay ... ... Defendant.	:	

"The Suit is dismissed with costs."

Letter from the District Government Pleader, Belgaum No. 145 dated 9th February, 1955 stating that the plaintiff in the suit noted in the margin has filed an appeal No. 30 of 1955 and requesting sanction to its defence.

RESOLUTION:- (1) The result of the suit is recorded.

(2) Sanction is accorded to the defence of the appeal No. 30 of 1955 in the Court of District Judge, Belgaum on the lines of the brief accompanying Government Resolution, Legal Department, No. 12315 dated the 1st November, 1949 and the favourable grounds containted in the judgment of the Civil Judge (Senior Division), Belgaum, dated the 21st January, 1954.

By order and in the name of the Governor of Bombay,

Original D.G. Palekar.
Deputy Secretary to Government.

Pl issue
R.G.P. 21/2

To

The Revenue Department,
The Collector of Belgaum,
The District Government Pleader, Belgaum.

Issued 21/2

Submitted for signature

SGN/19-2.

R.G.P. 19/2 J.S. 19/2 D.S.(Ca).

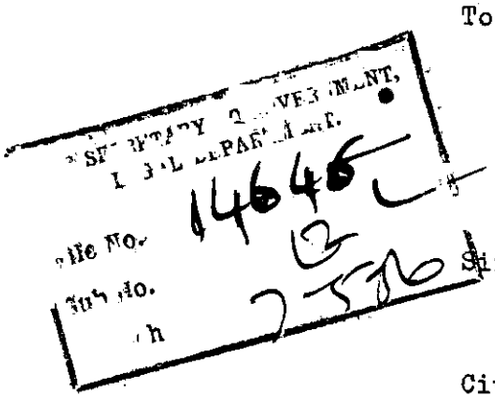
No. 370 of 1956.
Office of the Dist.Govt.Pleader,
Belgaum. Dated:- 30-4-56.

From

Shri A.R.Patil, B.A.,LL.B.,
Dist.Govt.Pleader, Belgaum.

To

The Remembrancer of Legal Affairs, Bombay.



Subject:- Civil Appeal No.30/55.
1. Tarachand Palamal Bhandari..Appellant.
Vs.
1. State of Bombay..Respondent.

Sir,

I have herewith sent an uncertified copy of judgment in Civil Appeal No.30/55. The Court has modified the judgment of the lower Court. The lower Court had decided that the order of eviction was proper. There was no reference in the plaint regarding the removal of the structure. Nor was it considered by the lower Court in the absence of any pleadings. In appeal the learned pleader for the appellant pointed out a case reported in 57 Bom.L.R. 243 (State Vs. Fakir Umar). In that case altnough the High Court has held that the order of evictio passed by the Collector is proper, it has held that the Collector had no jurisdiction to order the demolition of the structure. Compensation was allowed to the plaintiff for the demolition of the structure.

In this case there is no question of demolition of structure as there is no pleading regarding that. But the Collector has ordered that the building standing on the suit site should be removed. This order is clearly against law in view of the above quoted ruling. If the building was demolished as per that order, Government would have been required to pay compensation. Fortunately that has not been done. Although there is nothing in the pleading regarding the removal of the building, the learned Assistant Judge has decided that point also. In my opinion although it was not necessary to decide that point in this appeal, it cannot be said that that order is wrong. Practically Government has succeeded in the appeal as the order of the Civil Judge is upheld in toto. Only on a point which was not called upon for decision, the learned

17-7

Judge has made some modification in the order. Hence as the point is properly decided as per the recent rulings of our High Court quoted above, I do not think it would be worth-while to prefer an appeal against the said decree although technically Government would succeed if an appeal is preferred as the decision is on a question which is not covered by the pleadings. I have not applied for certified copies of judgment and decree as in my opinion no useful purpose would be served by prefering an appeal in the long run. I request you to inform me as to whether Government decides to prefer an appeal and whether I should obtain certified copies of judgment and decree.

Yours faithfully,

Dist.Govt.Pleader, Belgaum.

Copy F.W.Cs to the Collector of Belgaum for information.

SHD.

L.D.

Submitted.
An uncertified copy of the Judgment in C. Appeal No 30 of 1955 decided against Gov'h on 20th April 1956. is put up for orders.

9/5.

Sol. (RL) H. may note & pls attach [illegible] R 130 of L.O. & move for him that he may apply for certified & uncertified copies of judgment & decree in any case immediately whether the Govt is intending appeal or not & thereafter

No. 10615/E — 35 53

Office of the
Remembrancer of Legal Affairs,
Sachivalaya, Bombay, 10th May 1956.

Subject:- Civil Appeal No. 30/55.
1. Tarachand Palamal Bhandari... Appellant
vs.
1. State of Bombay... .. .. Respondent.

Memorandum:

With reference to his letter No. 370, dated the 30th April 1956, on the above subject, the attention of the District Government Pleader, Belgaum, is invited to Rule 130 of Law Officers Rules, and he is informed that he must apply for certified and uncertified copies of judgment and decree in every case invariably whether the case is in his opinion appealable or not. He should apply for certified copies of judgment and decree in this case immediately.

o/c

for Remembrancer of Legal Affairs.

To
The District Government Pleader,
Belgaum.

Issued
PSO 10/5

hsp/10/5

Submitted for sign.

10/5

J.S.

Submitted. after issue.
Question of filing an
appeal may now be
considered.

10/5.

SOL (ML)

Bl ask G.P to C. to file Second Appeal in High Court.
Certified copies of judgments & decrees in suit & appeal
and copy of Dy. S's letter No 370 of 30-4-56 to be sent to him.
Dy S Bl asked to send an uncertified copy of judgment
in suit to this office for record.

20-7-56.

Immediate

No. 16315/E

Office of the,
Remembrancer of Legal Affairs,
Sachivalaya, Bombay, 20th July 1956.

To

The Government Pleader,
High Court, Bombay.

Subject: Civil Appeal No.30/55 in C.S. No.424/51.

Sir,

With reference to the subject noted above, I have the honour to state that Government has decided to file a second appeal in the High Court against the decision of the Assistant Judge, Belgaum dated the 20th April 1956 in the above mentioned matter. You are, therefore, requested to take early steps to file an appeal in time.

A copy ofthe District Government Pleader's letter No.370 dated the 30th April 1956 along with certified copies of judgments and decrees of the trial & appellate Courts is sent herewith.

Yours faithfully,

for Remembrancer of Legal Affairs.

Copy forwarded with compliments to the Collector of Belgaum.

Copy of the District Government Pleader, Belgaum with a request to forward an certified copy of judgment of the trial Court to this office immediately.

DVD/4.

Suits:Belgaum.

For a declaration that the plaintiff is entitled to be confirmed in possession of suit property and that the order and notice of eviction are ultra vires and for a consquential injunction.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 17067/E
Sachivalaya, Bombay, 30th July 1956.

Read Government Resolution, Legal Department, No.3908/E, dated the 21st February 1955.

Letter from the District Government Pleader, Belgaum No. 370, dated the 30th April 1956 stating that Civil Appeal no.30 of 1955 in suit noted in the margin was decided by the Assistant Judge, Belgaum on 20th April 1956 when the following order was passed:-

In the Court of the Civil Judge, (Senior Division), Belgaum.
New Civil Suit No. 424 of 1951.
(Civil Suit No. 67 of 1949)
Tarachand Palamal Bhandari ... ..Plaintiff
vs.
The Province of Bombay ... ..Defendant

"The appeal is partly allowed; the decree passed by the Lower Court is set aside and it is hereby declared that the orders passed by the Government of Bombay and that the Revenue authorities referred to above in so far as they directed the removal of structures erected by the plaintiff in Survey No. 197/A are ultra vires of section 66 of the Land Revenue Code and as such illegal and inoperative. The plaintiff is liable to be evicted under section 65 of the Land Revenue Code and the orders passed in that respect in so far as they directed the eviction of the plaintiff are legal and intra vires. The defendant is restrained from executing the aforesaid orders in so far as they relate to the removal of buildings erected by the plaintiff. The defendant is at liberty to execute the orders in so far as the plaintiff's eviction is concerned.

As each party has succeeded in part, it is directed that the parties should bear their own costs of suit and - appeal.

Letter from the District Government Pleader, Belgaum No. 370 dated the 30th April 1956 not recommending the institution of an appeal.

RESOLUTION: Sanction is accorded to the institution of second appeal in the High Court, Bombay against the decision of the Extra Assistant Judge, Belgaum dated the 20th April 1956 on the lines of the brief accompanying government Resolution, Legal Department, No.12315, dated the 1st November 1949.

Issue 30/7

By order and in the name of the Governor of Bombay,

Submitted for sign.

25/7.

D.G.PALEKAR,
Deputy Secretary to Government.

g.s. 30/7

D.S.(civil).

original

To

The Revenue Department.
The Collector of Belgaum,
The Government Pleader, High Court, Bombay

P.T.O.

32 54

The District Government Pleader. Belgaum

Submitted after issue
Fit in S. Bel. 2/50

1w
31/1

J.S. 1/14

S. Bel. 2/50

5

No. 666 of 1956.
Office of the Dist.Govt.Pleader,
Belgaum. Dated:- 3-8-56.

To

The Remembrancer of Legal Affairs, Bombay.

Subject:- Civil Appeal No.30/55 in C.S.No.424/51.

Sir,

With reference to your letter No.16315/E dated 20th July 1956, addressed to the Government Pleader, High Court, Bombay, and copy endorsed to me, I have the honour to send herewith an uncertified copy of the judgment of the trial Court as desired by you.

Yours faithfully,

Dist.Govt.Pleader, Belgaum.

2487
3
9-8-56

Sub

SHD.

In the Court of the Civil Judge, S.D.,Belgaum.

At Belgaum.

Ex.53.

Civil Suit No. 424/51.

Shri V.A.Mujumdar &
" R.P.Bhandare.

1. Tarachand Palamal Bhandari, Age 64,
Trader, Arya Samajist, of Thalakwadi, Belgaum.. Plaintiff.

Vs.

Government Pleader.
Shri M.R.Patil.

1. The ~~State~~ Province of Bombay. .. Defendant.

Claim Rs 5/-·for Court fees and Jurisdiction.

The plaintiff sues for a declaration that he is entitled to be confirmed in the possession of the suit property and for an injunction restraining defendant from evicting him and disturbing his possession and to set aside the orders and notice as ultra vires so far as they affect plaintiff's right to be confirmed in possession.

2. It is alleged in the plaint that S.No.197/A of Thalakwadi belongs to the Chief Saheb of Jamkhandi and has been taken on lease by plaintiff on or about 9-9-1945 for five years on paying advance rent of Rs 200/- per annum, that the S.No. was first taken on lease from the Chief Saheb by one Jinnappa Kugaji from whom plaintiff had taken sub-lease for 7-8 years before 1945 and it~~x~~ was being used for non--agricultural purposes like storing timber and sawing wood, that plaintiff after taking the lease in 1945 reconstructed the old and delapidated sheds in order to carry on the same trade of timber, that the land was never used for agricultural purposes in the past, that it must have been used with permi~~x~~ssion for non-agricultural purposes, that the land is unfit for agriculture and is being used for non-agricultural purposes since more than 60 years, that plaintiff's predecessors are the owners of the land and are holding the same adversely to Government, that plaintiff is not a trespasser and the order of eviction is contrary to law, that the circumstances of the case would justify an action under Section 67, Land Revenue Code at the most, that the Revenue records do not show that

the land was assigned to plaintiff or his predecessor-in-title by Government, that while plaintiff was thus using the said land, he received notices and was asked by P.W.D. and Revenue Authorities as to whether he had taken permission to use the said S.No. for non-agricultural purposes, that his statement was recorded and ultimately he received notice of eviction under Section 202 of the Land Revenue Code from the Mamlatdar of Belgaum on 18-10-1946 to vacate the land, that his appeal to Government in that connection was decided against him, and the Revenue Authorities are pressing plaintiff to vacate the site, that the use of the land for non--agricultural purposes was never questioned in the past and by that conduct Government is estopped from questioning it now, that plff is not proved to be an occupant of the land within the meaning of the said code and it is not proved nor admitted that his or his predecessor's right is proved to be limited to the agricultural use of the land, and hence the order and notices are ultravires and hence this suit.

3. Defendant by written statement (Ex.17) contends that S.No.197/A is assessed for the purpose of agriculture and permission to use it for a non-agricultural purpose has never been sought either by plff or by any of his predecessors-in-title, that it is denied that the land is used for non-agricultural purpose for more than 60 years, that assuming that it is so used, it is used without the knowledge of the defendant and, therefore, defendant is not estopped from taking action under the Land Revenue Code, that as the land is converted to non-agricultural use without the permission of Government, plaintiff rendered himself liable to action under Sec.66 of the Land Revenue Code, that eviction has been ordered, not because plaintiff is a trespasser but on account of his using the agricultural land for non-agricultural purpose without taking permission of the Collector under Section 65 of the Land Revenue Code, that the suit is barred under Section 11 of the Bombay Revenue Jurisdiction Act, that the evidtion notice was issued on 16-10-1946 and the cause of action arose on that day, and so the suit filed more than a year after that day is barred by time under Article 14 of the Indian Limitation Act, and hence the suit be dismissed.

4. Issues framed by my predecessor at Ex.20 are :-

1. Whether plaintiff proves that the land in dispute was used for non-agricultural purposes, since long, with the permission of Government as alleged in para 2 of plaint ?
2. If it was used without any permission for non-agricultural purposes, can such long user of it for non-agricultural purposes, estop Government from questioning its similar use now ?
3. Whether plaintiff has acquired adverse title as regards such use for non-agricultural purposes ?
4. Whether the order of eviction and notice passed by the Prant Officer are ultra vires ?
5. Whether they can be set aside ?
6. Whether the suit is barred under Section 11 of Revenue Jurisdiction Act ?
7. Whether the claim of plaintiff is within time as contended in para 6 of plaint ?
8. Whether plaintiff is entitled to the declaration and injunction sought ?

5. My findings are :-

1. No. 2. No. 3. No. 4. No. 5. No. 6. Yes. 7. No. 8. No.

R E A S O N S .

6. It is the case of plaintiff (Ex.52) that he has got his timber depot in suit S.No.197/A since 1937 as sub-lessee of Jinnapa Kugaji and then as lessee of the Chief of Jamkhandi from 1945. The suit land belongs to the Chief of Jamkhandi as can be seen from the R.R.extract (Ex.5) as well as from the deposition of plaintiff (Ex.52). Plaintiff's name is also shown as the tenant of the land. In the absence of any evidence to the contrary, I accept plaintiff's word on that point as correct.

7. The further claim of plaintiff regarding the non-agricultural use of the land has, however, not been substantiated for the full

period of over 60 years before suit. He says that the non-agri--cultural use is made since about 50 years and he saw it when he used to go out for a walk towards Thalakwadi side all along since the time he came to live in Belgaum from Punjab in 1904. At first he lived in Belgaum town and in 1925 he went to live in Thalakwadi. His knowledge about non-agricultural user of the suit land can, at the most, be held to be personal since 1925 onwards. It is not stated before me as to who was making the use of the land before Jinnappa Kugaji, and there is no evidence on record from what year Jinnappa began to make non-agricultural use of the land. Even though plaintiff says that his predecess--or used the land for non-agricultural purposes such as storing timber and working a saw-mill, there is no evidence to corroborate it, so far as his own user is concerned, I do not think that there is anything to contradict his version.

8. The main point, however, is not whether the land was put to non-agricultural use but whether it was so done with the permission of Government. On that point plaintiff pleads ignorance. He does not know and never inquired if an application was given at any time to convert the land to non-agricultural use. He also does not know if any penalty or extra charge was paid to make the land non-agricultural. His further statement that he applied to the Minister expressing his willingness to pay non-agricultural assessment, shows that he was conscious of the fact that the land was agricultural.

9. It is the case of the plaintiff that it is a rocky plot and is unfit for agriculture and so far as his knowledge goes it was never used for agriculture. It, is, however, patent that it is not the user but the classification of the land that matters. The Record of Rights Extract (Ex.3) shows the land to be agri--cultural and levied with agricultural assessment. It is for plaintiff to show that the non-agricultural use of the land was being done with permission or that the assessment which is shown in respect of the land is non-agricultural. Since the non-agri--cultural assessment was never levied before as can be clear from

his own willingness to pay it if levied, the non-agricultural use of the land cannot be considered legal.

10. Section 65 of the Land Revenue Code lays down that if any occupant wishes to use his holding or any part thereof for any other purpose, the Collector's permission shall in the first place be applied for by the occupant. The Collector may then after due inquiry either grant or refuse the permission applied for. Certain rules have been framed for levying non-agricultural assessment and recovering other charges. Section 66 provides for penalty for so using the land without permission. It is laid down in that Section that if any such land be used without the permission of the Collector being first obtained, the occupant and any tenant or other person holding under or through him shall be liable to be summarily evicted from the land so used and from the entire S.No. of which it may form part. Section 67 gives the Collector discretion of granting the permission on such terms or conditions as may be prescribed by him inspite of Section 66. These relevant provisions of the Land Revenue Code show that it is the Collector who is the final authority either to order summary eviction of the tenant from any agricultural land used for non-agricultural purpose without his permission or to regularise the non-agricultural use by imposing penalty and other charges. In this case the Collector has thought fit to exercise the power of eviction instead of using his discretion in regularising the mischief by imposing terms and conditions. However, much we may sympathise with plaintiff, it cannot be said by any manner of reasoning that the Collector's order is illegal or ultra vires. Personally I think that in view of the fact that the non-agricultural use of the land was tolerated for a number of years, and in most of the area adjoining it and in almost the whole of Thalakwadi, building have been allowed to be erected, the non-agricultural use of the suit land should have been permitted to be continued on levy of non-agricultural assessment and penalty instead of ordering summary eviction. The discretion, however, lies entirely

with the Revenue Authorities to follow one course or the other, and the Court has no power to interfere with that discretion. An indication as to why the discretion was used in favour of summary eviction is to be found in the reply which plaintiff received from Government to his petition (Vide Ex.51). By that letter he was informed that his request for regularising the unauthorised non-agricultural use of S.No.197/A "cannot be complied with because the buildings abut on the main road". This shows that the order of eviction is made in pursuance of a definite policy. The Collector has also obtained Government sanction for the removal of the offending buildings constructed by the plaintiff in the suit land (Vide Ex.50). The order of eviction is, therefore, quite legal.

11. The procedure to be followed in the matter of eviction is laid down in Section 202, Land Revenue Code. The Collector directed the Prant Officer to issue eviction notice under Section 202. (Vide Ex.48) and accordingly the Mamlatdar issued the notice on 16-10-1946 for removal of the buildings from S.No.197/A (Vide Ex.49). No attempt is made to show any defect in the procedure. The only point made out before me is that the Collector should have used his discretion in regularising the non-agricultural user instead of sanctioning summary eviction.

12. In view of the discussion regarding the facts and the law governing them, I proceed to give my findings on the issues as framed. Issue No.1 has to be answered in the negative in as much as permission of Government is not shown to have been obtained before the land was put to non-agricultural use.

13. It is equally clear that non-agricultural use, how-soever long, cannot validate the use or estop Government from taking action unless it be shown that the buildings were erected on the suit land with the implied or express consent of the Revenue Authorities. It is material to note that the proceedings were started soon after plaintiff came on the land as a tenant. The Government cannot, therefore, be charged either with acquiescence or with any conduct which made plaintiff believe that the land was meant for non-agricultural purposes and made plaintiff to act upon such belief. I, therefore, answer issue 2 in the negative.

14. No xxxxx case of adverse title was made out in the evidence.

Plaintiff has led no evidence to show that his predecessor had erected sheds in the plot, and in any case, plaintiff's own statement does not take his knowledge beyond the last 50 years. Issue No.3, is therefore, answered in the negative.

15. I have already shown above that the Collector and his subordinate Revenue Officers were competent to issue notice of eviction. Plaintiff's request to regularise the non-agricultural use has been definitely turned down, and action is taken under Section 66. It is fully within the Collector's power and discre--tion to order eviction. The notice issued by the Mamlatdar ("x.49(is also quite legal. The notice is meant for the purpose of removal of the offending buildings, and not to evict him from the land or to take away whatever other rights he may have as against his land-lord. As the notice is perfectly legal and intra vires of the Revenue Authorities, I answer issue No.4 in the negative. It, therefore, follows that the orders cannot be set aside. I answer issue No.5 in the negative.

16. It was urged for the defendants that the suit is barred under Section 11 of the Bombay Jurisdiction Act in view of the fact that after plaintiff's appeal to the Commissioner was rejected, he did not appeal to the Revenue Tribunal. Section 11 bars a Civil Suit unless plaintiff first proves that previously to bringing the suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present. The date of decision of the appeal before the Commissioner is not disclosed in the evidence, and hence it is not possible for me to say if there was time to prefer the appeal to the Tribunal. Mere appeal to Government would not help plaintiff, inasmuch as the next appeal after the decision of the Commissioner lay to the Tribunal. Under the law, it is for plaintiff to show that he had presented all possible appeals before the expiry of the period of limitation. He has failed to prove it and so I answer issue No.6 in the affirmative.

17. The Article 14 of the Limitation Act applies to such a case,

As held in Secretary of State Vs.Chimanlal (44 Bom.L.R.295), the notice under Section 202 amounts, in fact, to a decision or order. The suit, therefore, ought to have been filed within one year from the date of the notice i.e. from 16-10-1946 (Vide Ex.49). The suit was first filed on 22-4-1949. In para 6 of the plaint, the cause of action is stated to have arisen when the Circle Officer attempted to evict the plaintiff on or about 25-9-1948. The material date for the purpose of setting aside the order is the date of the order or notice of eviction, and not the date on which the order was attempted to be put into execution, by rmmoving the unauthorised structures. The suit is, therefore, barred by time. I answer issue No.7 accordingly. Plaintiff is, therefore, not entitled to any relief. I answer issue No.8 accordingly and dismiss the suit with costs.

Order.

Suit dismissed with costs.

Dated:- 24th November 1954.

Sd/-D.G.Rajadhyaksha,

Civil Judge, S.D.,Belgaum.

LD

File in S. Bel. 2/50 (appeal called in this Dept).

VK
10/6

Sol(ML) 6.

6-8.

6-Bel-2-50

14-

IMMEDIATE.

No.

OFFICE of the
Government Pleader, High Court,
B o m b a y, 14th August 1956.

To
16 AUG 1956

The District Government Pleader,
Belgaum.

THE ... DEPARTMENT.
No. 25270
181/56

Subject Filing of Second Appeal No. of 1956 in Civil Appeal No. 30 of 1955 in Civil Suit No. 424 of 1951.(The State of Bombay Vs. Tarachand Palamal Bhandari).

.....

Sir,

With reference to the G.R.L.D.No. 17067/E dated 30-7-1956 on the above subject, I have the honour to request you to send me uncertified copies of judgments of both the Courts (Appellate and Trial) in the above matter at an early date as the above Second Appeal is likely to come up for admission in the next week.

Yours faithfully,

for Government Pleader, High Court.

No. 9209

Copy forwarded with compliments to the Remembrancer of Legal Affairs, Bombay for information.

Filed in S. Bd. 1956
Papers received
23/8

No. 715 of 1956.
Office of the Dist.Govt.Pleader,
Belgaum. Dated:-18-8-56.

To

The Government Pleader,High Court,Bombay.

Subject:-Filing of Second Appeal No. of 1956 in Civil Appeal No. 30 of 1955 in Civil Suit No.424/51.
(The State of Bombay Vs. Tarachand Palamal Bhandari)

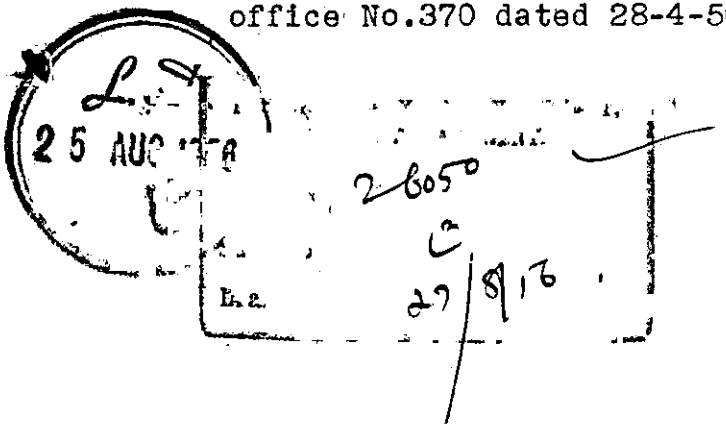
Sir,

With reference to your letter No.9208 dated 14-8-56, I have the honour to send herewith an uncertified copy of Judgment in Civil Suit No.424/51 as desired by you. The uncertified copy of judgment in Civil Appeal No.30/55 may please be obtained from the R.L.A.'s Office to whom the said copy has been sent under this office No.370 dated 28-4-56.

Yours faithfully,

Sd. M.R.Patil.

Dist. Govt. Pleader,Belgaum.



No. 9479

OFFICE of the
Government Pleader, High Court,
B o m b a y, 23rd August 1956.

Forwarded with compliments to the Remembrancer of Legal Affairs, Bombay.

2/-. He is ~~xxxxxx~~ requested to forward uncertified copy of judgment in Civil Appeal No. 30 of 1955 which has been sent to him by the Dist.Govt.Pleader, Belgaum immediately. This has a reference to G.R.L.D.No. 17067/E dated 30-7-1956.

for Government Pleader, ~~High~~ Court.

Submitted 69 LD

The D.G.P., Belgaum may be informed that an uncertified copy of judgment in CA No 30/55 received under his letter No 370 dt 30.4.56 is for the record of this Dept. He should take out another copy & forward the same to the G.P. Hdqrs, Bombay immediately. This practice should be followed in future as well. A copy of this letter may be endorsed to the

71

Immediate.

No. 19961/E
Office of the
Remembrancer of Legal Affairs,
Sachivalaya, Bombay 5th September 1956.

Subject:- Filing of Second Appeal No. of 1956 in Civil Appeal No.30 of 1955 in Civil Suit No.424/51.
(The State of Bombay vs. Tarachand Palamal Bhandari).

MEMORANDUM.

With reference to his letter No.715 dated the 18th August 1956 addressed to the Government Pleader, High Court, Bombay, the District Government Pleader, Belgaum is informed that an uncertified copy of judgment in Civil Appeal No.30 of 1955 received under his letter No.370 dated 30th April 1956 is for the record of this office. He is, therefore, requested to take out another copy and forward the same to the Government Pleader, High Court, Bombay immediately. He is further requested to follow this practice in future.

For Remembrancer of Legal Affairs.

To
The District Government Pleader,
Belgaum.

KML/4.9

Copy forwarded with compliments to the Government Pleader, High Court, Bombay.

Submitted for Sign.

Issued 5/9

4/9

5/9

SGL. (OLL)

12

Submitted after issue.
File in S. Bel. 2/50.

10/9.

J. S. 10/9

S. Bel. 2/50

No.

Office of the Government Pleader, High Court,

Bombay, 26th September 1956

From

Shri H. M. Choksi, B. A. (Hons.) LL. B.,

Government Pleader, High Court, BOMBAY.

To

The **Collector of Belgaum.**

At : BELGAUM.

THE SECRETARY TO GOVERNMENT, LEGAL DEPARTMENT. 31184 SIR 26 9 56

Subject Second Appeal No. 935 of 1956 in Civil Appeal No.30 of 1955 in Civil Suit No. 424 of 1951. The State of Bombay Versus Tarachand Palamal Bhandadri.

.....

With reference to Government Resolution Legal Department No. ~~17067/E~~ dated the **30-7-1956**, on the above subject, I have the honour to invite reference to Rule 134 (2) of the Law Officers' Rules and to request you to direct the District Government Pleader who may have conducted the case, referred to above in the Court below, to inform me the numbers of important exhibits which will have to be relied upon in support of the case on behalf of Government at the time of its hearing in the High Court as those exhibits which are in vernacular will have to be translated for the use of the Court and those that are in English will have to be incorporated in the paper books which will be prepared for the use of their Lordships. The appeal has been admitted on **20-9-1956.**

2. Certified copy of the notice given by the plaintiff to the Secretary of State under Section 80 C. P. Code should be sent to me at an early date.

3. I shall also thank you to send to me four copies of the plan showing the exact position of the land acquired in relation to its surrounding situation and the several instances of sale-relied on in the Lower Court.

L. D. 25 SEP 1956

Yours faithfully,

Government Pleader, ~~High~~ Court.

for

No. 10286

Copy forwarded with compliments to the Remembrancer of Legal Affairs, Bombay for information.

Folle vii S. Bel. 21/50

Vh
27/9

JS 27/9

S. Bel. 2 | 50